

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION**

United States District Court  
Southern District of Texas  
ENTERED

AUG 27 2008

Michael N. Milby, Clerk of Court  
By Deputy Clerk *[Signature]*

UNITED STATES OF AMERICA,  
Plaintiff,

v.

1.71 ACRES OF LAND, more or less, situate  
in STARR COUNTY, TEXAS; and  
CITY OF ROMA, TEXAS; ET AL.,  
Defendants.

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Civil Action No. M-08-207

**SCHEDULING ORDER**

Having considered the concerns of the Plaintiff and Defendants during the hearing held in this action on August 26, 2008, the Court hereby establishes the following scheduling order for this case:

By September 15, 2008, the Plaintiff must provide the Defendants with: (1) a metes and bounds description of each interest in property to be taken, and, if possible, the description shall be indicated on a map or plat to be provided to the Defendants; (2) the Plaintiff's description as to what constitutes the parent tract, as of September 15, 2008<sup>1</sup>, from which the interests in property will be taken, and, if possible, the description shall be indicated on a map or plat to be provided to the Defendants; (3) a description of how and where the Defendants will be able to access any portion of the severed parent tract located on the side of the fencing closest to the Rio Grande River, including, to the extent possible, a description what will be necessary for the Defendants to pass through the gate or infrastructure located at the access point(s) as well as a map identifying the

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<sup>1</sup> The Court understands that the description of the parent tract may be a mixed question of law and fact which ultimately rests with the fact-finder. The Court's present order only requires the Plaintiff to provide the Defendants with the Plaintiff's description of the parent tract for the purpose of engaging in negotiations pursuant to 8 U.S.C. § 1103(b).

location of the access point(s); (4) a description, diagram and/or picture of the fencing and all related infrastructure that will be built on the property taken from the Defendants, and to the extent possible, a map identifying the location of said infrastructure; and (5) a breakdown, by general category, of the Plaintiff's pre-suit offer of compensation to the Defendants (*e.g.*, compensation for the taking of property for the construction of the fence and/or compensation for diminution in value, if any, to the parent tract).

Plaintiff's motion for possession will remain pending without need for renewal or refiling. Plaintiff and Defendants must notify the Court in writing on or before September 10, 2008 regarding whether the parties will be submitting an agreed order or whether the parties have been unable to reach an agreement. Should an agreement not be reached, Defendants must re-file any objections to the Plaintiff's motion for possession, if any, by September 12, 2008 at 12:00 p.m. These objections should include: (1) a description of all meetings, conversations, phone calls, and e-mails regarding the property between the Plaintiffs and Defendants through September 10, 2008; and (2) specific assertions regarding what further negotiations should have allegedly occurred to satisfy the negotiation requirements of 8 U.S.C. § 1103(b).

Plaintiff is ordered to file a brief with this Court by November 7, 2008 regarding its recommendation and supporting authority as to whether this case should involve a commission or a jury. Defendants are ordered to respond with any alternative recommendation and supporting authority by November 21, 2008. Plaintiff is further ordered to provide the Court with its preference as to a six or twelve-member jury by September 5, 2008, so the Court can proceed to schedule this action if the Court later decides that the case will be tried to a jury.

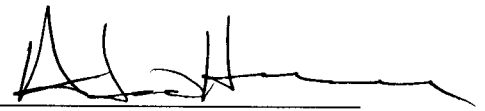
Parties may proceed with discovery pursuant to the Federal Rules of Civil Procedures beginning October 1, 2008. All discovery must be completed by July 10, 2009. The Plaintiff must

inform the Court by February 6, 2009 if a title hearing will be necessary in this action. Any new parties must be joined by February 13, 2009.

Both parties must name experts and produce expert reports by March 20, 2009 in compliance with Rule 26(a)(2). Parties have until April 17, 2009 to name any rebuttal experts and produce rebuttal expert reports.

The deadline for filing any dispositive motions is June 5, 2009. Non-dispositive motions must be filed by July 17, 2009. The Joint Pretrial Order in this action must also be filed no later than July 17, 2009. The docket call for this action is set for August 11, 2009 at 1:30 p.m. in at the United States Courthouse located at 600 East Harrison Street, Brownsville, Texas at the Third Floor Courtroom. The case is tentatively set for jury selection at 9:00 a.m. on August 13, 2009. The Court may adjust the docket call and/or jury selection, if necessary, after reviewing the recommendation of each party as to the fact-finder.

Signed this 27th day of August, 2008.

A handwritten signature in black ink, appearing to read 'Andrew S. Hanen', written over a horizontal line.

Andrew S. Hanen  
United States District Judge